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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 000762

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SUBJECT: ELECTION COMMISSION CALLS FOR ELECTION DELAY;
ELECTION LAW TROUBLES EXPERTS

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b/d)

Summary

¶1. (C) IFES Country Representative Peter Erben told the Ambassador April 13 that Chief Election Commissioner Bhoj Raj Pokhrel had given a letter to Prime Minister Koirala stating that a Constituent Assembly election could not be held by June 20. Pokhrel and his fellow commissioners were asking for 110 days to prepare for the election after a new date was declared. Erben and National Democratic Institute Country Director Dominic Cardy emphasized that the proportional system which the Interim Parliament's State Affairs Committee was currently considering adopting for roughly half of the seats in the Constituent Assembly would be extremely undemocratic: it would allow the parties to determine the candidates after the election. Erben and Cardy added that the April 12 recommendation by the Electoral Constituency Delineation Commission to increase the number of first-past-the-post seats in the Terai and, to a lesser extent in the hills, made sense, but that it was done with little consultation. They anticipated challenges to the constituency boundaries.

Chief Election Commissioner Says No Dice

¶2. (C) On April 13, IFES Country Representative and international election expert Peter Erben informed the Ambassador that Chief Election Commissioner Bhoj Raj Pokhrel had sent a letter to Prime Minister Koirala declaring that a June 20 Constituent Assembly election was not feasible. The Ambassador said he had heard the same thing during his meeting that same morning with the Prime Minister (septel). Erben and National Democratic Institute (NDI) Country Director Dominic Cardy explained that Pokhrel had waited until all five commissioners had agreed on the need for a delay. Erben stated that Pokhrel had also insisted that the Election Commission be given 110 days to prepare after the Interim Government declared a new election date. According to Erben, 90 would have been sufficient, but 110 days was better. He pointed out the risk that the parties would postpone the election but not set a new date. Even if the election were rescheduled for the fall, they would all need to work hard if they wanted the election to be successful.

Election Delay Now Likely

13. (C) The Ambassador agreed that Prime Minister Koirala seemed prepared to delay the Constituent Assembly polls. Communist Party of Nepal - United Marxist Leninist General Secretary Madhav Kumar Nepal would try to blame the Prime

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Minister's Nepali Congress Party for the delay, the Ambassador predicted, but M.K. Nepal too had already realized a June 20 election was not possible. Erben noted that everyone was waiting for someone to say, "The Emperor has no clothes." The NDI Country Director reported that the Maoist Central Committee had apparently decided to support a delay in the election, but allegedly only in return for support from the other parties to declare Nepal a republic immediately. The Interim Cabinet had already tabled a constitutional amendment which would authorize that declaration based on a two-thirds vote of the MPs. The IFES Country Representative pointed out that the UN Mission in Nepal (UNMIN) had not been the only organization calling privately for an election delay. The Carter Center had taken the same position and had been prepared to issue a statement to that effect.

Constituent Assembly Member Bill Is Undemocratic

14. (C) Erben and Cardy stressed that the method for handling the proportional seats in the Constituent Assembly Member Bill under consideration in the State Affairs Committee election was fundamentally undemocratic. They explained that, if the bill were adopted, the parties would be able to

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pick and choose from anyone on their party list after the election, as long as they had the requisite number of women, Madhesis, Dalits, etc. Erben predicted that the Nepali Congress and other parties would put popular figures -- musicians, artists and sports figures -- at the top of their party list to attract votes but then pick and choose among everyone. The public would be dismayed when they ended up being represented by people in Parliament they had never heard of. The IFES and NDI experts complained that this system would give all the power to the party leaders and would discourage candidates from speaking their mind for fear they would not be selected. Erben said this approach had been tried in only two countries -- Serbia and Guyana -- and had been widely criticized.

Constituency Delineation Commission Recommendation OK

15. (C) Erben and Cardy were less critical of the April 12 recommendation by the Electoral Constituency Delineation Commission to create an additional 35 first-past-the-post seats. The IFES Country Representative stated that the Commission, which was chaired by a Madhesi and former Supreme Court Justice, had done a decent job of matching the number of members to the population. It had provided for an additional 28 districts in the Terai and 7 in the hills. Having constituencies of approximately 96,000 in both the Terai and the hills made sense. The problem was with the way the Commission had gone about its work. While the Commissioners had welcomed submissions from the parties and the public, they had not allowed any time for public comment on their conclusions before handing their recommendation over to the Interim Government. Cardy said he had already heard a number of complaints from the parties about the way the lines had been drawn to create the new constituencies. Erben said nearly 80 percent of the electoral districts now had new borders.

Increase in Constituent Assembly Numbers Probable

16. (U) Prime Minister Koirala told the press April 12 that he planned to implement the Electoral Constituency Delineation Commission recommendation. (Note: With the proposed increase, the number of first-past-the-post seats in the Constituent Assembly would go from 205 to 240. According to press reporting, the Commission recommended that the number of proportional seats be similarly increased from 204 to 240. With the 17 -- versus 16 previously -- nominees by the Cabinet from the first amendment to the Interim Constitution factored in, this would bring the total number of seats in the Constituent Assembly to 497. The constitution would, of course, have to be amended. End Note.)

Comment

17. (C) According to press reports, Chief Election Commissioner Pokhrel held a press conference at noon on April 13 to publicize his letter calling for a delay in the Constituent Assembly election. His letter emphasizes that the poor law and order situation is one of the major reasons why the election must be delayed, a point the Ambassador also heard the National Democratic Institute Country Representative stress. The cabinet reportedly considered the letter the morning of April 13, and the parties were to review it in the afternoon. A delay now seems likely. What we would not want to see is an agreement by the parties with the Maoists to move immediately to a republic. While we have no love for the King, it seems foolish to us to beat that dying horse at this time. We plan to meet soon with the Speaker of the Interim Parliament, and will stress to him, that even if the election is delayed, there is no time to waste and that he should reconsider approving an undemocratic election law draft.

MORIARTY